

Application No. 10/616,819  
Attorney Docket No. 12745/2  
Reply to Office Action of May 9, 2005

### REMARKS

Claims 1 to 20 are pending in the application. Reconsideration in view of the following remarks is respectfully requested.

Claims 1 to 20 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2004/0093555 (hereinafter "the Therrien '555 reference").

As regards the Therrien '555 reference, it is not entitled to rely on Provisional Application No. 60/409,684 ("the '684 provisional application") for an earlier effective filing date for purposes of this Section 102(e) rejection. This is because the earlier '684 provisional application does not include the subject matter, which was asserted by the Office Action to disclose the recited features of independent claims 1, 8 and 15 with respect to "displaying a graphical user interface to a user, wherein the graphical user interface is a graphical representation of a data protection policy and a replication policy" or "providing the user with an ability to modify the data protection policy and the replication policy through the graphical user interface." *A copy of the provisional application accompanies this response.*

Accordingly, since the Therrien '555 reference was filed on September 10, 2003 and published on May 13, 2004, and since it cannot rely on the '684 provisional application for an earlier effective file date, it is not a prior art reference under 35 U.S.C. § 102(e) (or any other provision of 35 U.S.C.) with respect to the present application, which was filed on July 8, 2003. It is therefore respectfully requested that the Therrien '555 reference be withdrawn as a prior art reference. If the Examiner continues to assert the reference is prior art, it is respectfully requested that the Examiner explain exactly how it is prior art under the U.S. Patent Laws.

It is therefore respectfully requested that the anticipation rejections be withdrawn.

In summary, it is respectfully submitted that all of claims 1 to 20 of the present application are allowable for the foregoing reasons.

Application No. 10/616,819  
Attorney Docket No. 12745/2  
Reply to Office Action of May 9, 2005

**CONCLUSION**

For at least all the above reasons, the Applicants respectfully submit that this application is allowable. It is therefore respectfully requested that the rejections be withdrawn. It is respectfully requested that the case be allowed, so that the case may proceed to issuance.

Respectfully submitted,

Dated: August 30, 2005

By:  (54,204) for Aaron C. Deditch

Aaron C. Deditch  
(Reg. No. 33,865)

KENYON & KENYON  
One Broadway  
New York, New York 10004  
(212) 425-7200

**CUSTOMER NO. 26646**